

REMARKS

Upon entry of the Amendment the original claims 1-20 are cancelled. Claims 21-31 are added via the Amendment. Applicants respectfully submit that no new matter is added via the Amendment. Support for claims 21-31 may be found in the specification as follows:

<u>Claim</u>	<u>Page</u>	<u>Lines</u>
21	3	4-9,
	4	12
23, 26	7	24-25
24	3	12-13
25	4	11-13
27-29	4	20-26
30	9	1-27
	10	1-14
31		See claims 21-30 support.

Prior Office Action

In the Office Action mailed on December 19, 2005, claims 1-14, 16 and 17-20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Parker U.S. 4,602,099. Claims 1-20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Singleton et al. U.S. 5,547,657. Claims 12-17 were rejected under 35 U.S.C. 112, second paragraph. In view of the Amendment, Applicants respectfully submit that the rejections under 35 U.S.C. 112, second paragraph are rendered moot, and that claims 21-31 are patentable under 35 U.S.C. 103(a), over Parker and/or Singleton.

The Invention

While it is known to utilize appreciable amounts of alcoholic solvents to disperse benzocaine in aqueous oral rinses, it also is known that benzocaine is only sparingly soluble in water alone. Applicants are claiming an oral rinse composition that comprises at least about 0.04% benzocaine, less than about 10% by weight carbomer; and a solvent system comprising water as a predominate solvent. In certain claimed embodiments the

compositions comprise greater than 80%, or 90%, by weight water. Certain claimed embodiments are free of aliphatic alcoholic and/or non-alcoholic organic solvents. In other claimed embodiments the compositions include a neutralizing agent so as to provide the rinses with a pH of about 8 or higher.

Prior Art

Parker discloses antirhinovirus agents and various means for delivering such agents. While Parker does disclose a mouthwash as a means for delivering the claimed agents, Applicants respectfully submit that Parker fails to disclose or suggest a mouthwash containing both benzocaine and carbomer, in addition to a solvent system where water is the predominant solvent in the wash.

Parker discloses benzocaine merely as one in an extremely long list of potential agents that may be combined with the antirhinovirus agents disclosed in Parker, in one form or another. Similarly, carbomers are mentioned only as a possible suspending agent amongst others listed. Applicants respectfully submit that selection of benzocaine from the long list of potential agents, in addition to selection of carbomers from the various suspending agents listed, and to then combine the two components at the claimed levels, all with no further suggestion from Parker, would require hindsight selection.

The only solutions exemplified in Parker are Examples 11 and 21. While Example 11 utilizes water, it does not include benzocaine or carbomer. In addition, in contrast to claims where the compositions claimed by Applicants are free of aliphatic alcohol and/or non-alcoholic organic solvents, Example 11 of Parker contains substantial amounts of both alcohol and polyethylene glycol. Example 21 contains none of the critical elements of Applicants' claimed compositions.

Based on the foregoing, Applicants respectfully submit that claims 21-31 are patentable over Parker.

Singleton discloses mouth rinses that are freeze-thaw stable and that are prepared using non-alcoholic organic solvents, such as polyethylene and propylene glycols, as the sole solvents. Applicants respectfully submit that the term "non-alcoholic", as used in Singleton, means free of monohydric alcohols, not aqueous (Col. 1, ll 60-62). By definition, the rinses of Singleton cannot include water as the predominant solvent due to

the requirement that they are freeze-thaw stable. Accordingly, Applicants respectfully submit that claims 21-31 are patentable over Singleton.

Based on all of the foregoing, Applicants respectfully submit that claims 21-31 are patentable and respectfully request a notice of allowance to that affect. Should the Examiner wish to discuss the Amendment Applicants' representative may be reached at 732-524-6201, Mon.-Fri, 9:00 am to 5:00 pm.

Respectfully submitted,

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